IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.146 OF 2006

Wharton Shipping Limited. ...Petitioner.

Vs.

Navanagar Metcoke Limited. ...Respondent

Mr.P.S.Pratap, for Petitioner.

None for Respondent.

CORAM: D.K.DESHMUKH, J.

DATED: 2nd May,2006

P.C.:-

1. This petition has been filed under Section 47 of the Arbitration and Conciliation Act, 1996 for enforcement of the foreign Awards at Ex.L and Ex.P. The learned Counsel appearing for petitioner states that the respondent has been served, affidavit of service has been filed. The respondent is not appearing. Heard the learned Counsel appearing for petitioner. Perused the papers. It appears that after the Awards were made there was an agreement entered into between the parties. The petitioner had agreed to reduce the amount to US dollar $ 75,000/-. The parties had agreed that this amount will be paid in three installments of US dollar $ 25,000/- each. The first installment

was to be paid on 28.12.2005, second installment was to be paid on 20.1.2006 and third installment was to be paid on 20.2.2006. According to the petitioner, the respondent had paid only first installment of US dollar $ 25,000/- on 26.1.2006. Thereafter, the installments have not been paid by the respondent. According to the agreement between the parties if there is default committed by the respondent as agreed by the parties, the petitioner shall be entitled to enforce the Award for the full amount. The respondent is not appearing and he has not filed any affidavit and has not shown any cause as to why enforcement of the foreign award of which the petitioner is seeking enforcement is to be granted.

2. Taking overall view of the matter therefore, in my opinion it will be appropriate to grant this petition in terms of prayer clause (a) and (b). It is clarified that out of the decreetal amount, the amount of US dollar $ 25,000/- has been paid by the respondent and the respondent shall be given credit for that amount while executing the decree. The petitioner shall be at liberty to apply to the Prothonotary and Senior Master of this Court for taking back the original foreign awards. In case such an application is made, the Prothonotary and Senior Master of this Court shall make order thereon in accordance with law.

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